

Application No.: 09/966,832
Amendment and Response dated October 22, 2004
Reply to Office Action of July 27, 2004
Docket No.: 760-86 CON/RCE
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REMARKS

The Examiner has rejected claims 33-41 under the doctrine of obviousness-type double patenting as being unpatentable over claim 16 of U.S. Patent No. 6,312,458 in view of U.S. Patent No. 6,042,605 to Martin et al.

For the record, Applicant notes that the double patenting rejection as written is improper and not in accordance with MPEP §804. However, to facilitate prosecution of the present application, enclosed herewith is a terminal disclaimer filed in compliance with 37 CFR 1.321(c) disclaiming the terminal portion of any patent issuing on the present application which would extend beyond the expiration of U.S. Patent No. 6,312,458. Also enclosed is a check for \$110.00 for the filing fee for the terminal disclaimer and an associate power of attorney. This terminal disclaimer is believed to obviate the obviousness-type double patenting rejections, with respect to claims 33-41. The rejection should properly only be based on Applicant's commonly owned U.S. Patent No. 6,312,458 and the present terminal disclaimer is intended only to address such a rejection.

Accordingly, Applicant believes claims 33-41 to be in condition for allowance and respectfully requests withdrawal of the rejections.

Should the Examiner have any questions regarding this response or wish to discuss this matter in further detail, please contact the undersigned counsel.

Respectfully submitted,



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